

CERTIFIED FOR PARTIAL PUBLICATION*

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

JERRY SORRELS et al.,

Defendants and Appellants.

B224166

(Los Angeles County
Super. Ct. No. BA321479)

**ORDER MODIFYING OPINION
AND DENYING PETITIONS FOR
REHEARING**

[No change in the judgment]

THE COURT:

Having read and considered the Petitions for Rehearing filed by Appellant on September 6, 2012, and by Respondent on September 7, 2012, the petitions are denied.

IT IS ORDERED that the opinion filed in the above-captioned matter on August 24, 2012, be modified as follows:

1. On page 5, the second full paragraph that begins with “On April 27, 2007, Garrett and Sorrels were placed . . .” should be deleted and replaced with:

On April 27, 2007, Garret and Sorrels were placed in a monitored cell together and their recorded statements were admitted into evidence at trial. Sorrels told Garret that he suspected Gray was snitching because the police showed him “every picture [ex]cept for

* Pursuant to California Rules of Court, rules 8.1100 and 8.1110, only the following parts are certified for publication: the Facts, part II.A of the Discussion on Defendant Jenkins’s Appeal, and the Disposition.

this nigga picture, Blood.” Sorrels also told Garret that he had erased Garret’s phone number as well as “Baby Damu” Lowe’s. Sorrels later stated that “They got everybody who was ridin’ with us.” While alone in the cell with a monitored telephone, Garret said that he had been “booked [] 187.”¹ He later noted, “They still can’t prove nothin[g]. Maybe we was passin’ by.” He also said, “I could be put away from everything that really matters man. You know, I really fucked up, man. I could be put away from everything that really matters, man.” He then noted that “this is a learning lesson, do right. That’s all it is.”

2. On pages 37-38, under subheading II, the paragraph that begins with “For the reasons explained in addressing . . .” should be deleted and replaced with:

For the reasons explained in addressing Sorrels’s appeal, we reject Garrett’s contention that his conviction must be reversed because the trial court failed to instruct the jury sua sponte on the law governing accomplice testimony as it related to witness J.K. Gray. There was sufficient corroborating evidence supporting Gray’s preliminary hearing testimony as to Garrett as well. Garrett’s own statements recorded in the jail cell provide the corroborating evidence. Indeed, while he was in the jail cell, he said, “they still can’t prove nothing[g]. Maybe we was passin’ by.” He later stated that he had been booked for murder and that he had “really fucked up, man.” He also noted that “this is a learning lesson, do right. That’s all it is.” By his own statements, Garrett admitted he had “fucked up” and placed himself in the caravan of vehicles who went to the murder scene, providing corroboration of Gray’s testimony as to his actions on the night of the murder.

3. On page 2 of the Concurring Opinion, the full paragraph that begins with “Nevertheless, I see serious problems with the court’s remarks . . .” should be deleted and replaced with:

Nevertheless, I see serious problems with the court’s remarks and they are at least twofold:

¹ California Penal Code section 187 defines the crime of murder.

4. On page 3 of the Concurring Opinion, the full paragraph that begins with “3. Finally, it is particularly troubling” should be deleted in its entirety.
5. On page 4 of the Concurring Opinion, the first full sentence beginning with “The prosecution’s opening statement was in effect given four times” should be deleted and replaced with:

The repetition of what was in effect the prosecution’s opening statement by the trial court raises the considerable concern that by the time the jury had heard the evidence, they were so inured to the prosecution’s theory that its ability to assess the evidence objectively may have been impaired.

There is no change in the judgment.

BIGELOW, P. J.

RUBIN, J

GRIMES, J.